

view by virtue of this amendment and the view of the majority concurring in the report now before you for consideration.

It is our view, which we hope you will adopt, that the substance of what the commissioners are authorized to do be as contained in our report, namely, that they may exercise powers only with respect to warrants of arrest, bail, collateral and incarceration pending hearing. The words Delegate Macdonald proposes to delete by his amendment are these: "and then only as prescribed by rule."

In our view, there is no necessity for concurrent authority in the legislature with respect to the exercise of these substantive powers by the commissioners. In our view, the exercise of the powers prescribed for the commissioners in our recommendation is purely in the area of practice and procedure. Accordingly, we have advisedly included in our recommendation the provision that the exercise of these powers shall be only by rule, consistent with our overall recommendation that in matters of practice and procedure, in housekeeping, if you please, the operations of these commissioners as appointees of the district judge be controlled by rule.

We, therefore, ask you to vote against this amendment.

THE CHAIRMAN: Does any delegate desire to speak in favor of the amendment? Delegate Willoner?

DELEGATE WILLONER: Mr. Chairman, once again we are confronted with the problem we were confronted with several times before. I would like to say again that it is not a matter that would in fact be something the legislature would be interested in, but is a matter of principle and I would just like to restate that proposition.

THE CHAIRMAN: Does any other delegate desire to speak in opposition to the amendment? Are you ready for the question? Delegate Marion.

DELEGATE MARION: Mr. Chairman, my view of this may not be correct, but, as I see it, there is a distinction between what this amendment would propose to do here and what Delegate Macdonald has achieved by Amendments 6 and 12, where he has inserted the words "law or" before the word "rule" in prior recommended sections of our report.

This is not so much the granting of a power to the court as permitting the court

by rule to limit the authority of commissioners. What he would ask be done here by deleting all of these words is to remove from this section the authority to limit the power of commissioners as granted by the Constitution, or to spell out how those powers might be exercised by these commissioners.

It would seem to me that to achieve the purpose which he advanced in detailing his reasoning for offering this amendment, it would be more consistent were he to have followed the language that he had asked be inserted in prior amendments rather than remove the limitation of the entire clause at the end of this section. I would urge the defeat of the amendment.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

The question arises on the adoption of Amendment No. 15 to Committee Recommendation JB-1. A vote Aye is a vote in favor of Amendment No. 15. A vote No is a vote against. Cast your vote.

*(Whereupon, a roll call vote was taken.)*

THE CHAIRMAN: Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 31 votes in the affirmative and 87 in the negative, the motion fails. The amendment is rejected.

The page will please distribute amendment BD. Please mark this Amendment No. 16. Please also add to the sponsoring delegates the name of Delegate Dukes. The amendment is sponsored by Delegates Bothe and Dukes, Amendment No. 16. The Clerk will read the amendment.

READING CLERK: Amendment No. 16 to Committee Recommendation JB-1, by Delegates Bothe and Dukes: On page 4 Section 5.11 Commissioners, in lines 2 and 3, strike out the words "collateral and" and insert in lieu thereof the following: "terms of pre-trial release or".

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Bothe to speak to the amendment.

DELEGATE BOTHE: Mr. Chairman, fellow delegates, the purpose of this amendment is two-fold: first, to make clear that the power of the Commissioners will extend to authority to release people on their